

RESOLUTION

A RESOLUTION TO AMEND ARTICLE 4, PART 4 AND SECTION 5-904 OF THE  
FAUQUIER COUNTY ZONING ORDINANCE AND SECTIONS 15-300, AND 3-323  
PERTAINING TO FLOODPLAIN OVERLAY DISTRICTS

WHEREAS, it is appropriate to amend the Zoning Ordinance to update the Floodplain Overlay District; and

WHEREAS, on September 28, 2006, the Planning Commission initiated this text amendment; and

WHEREAS, on October 28, 2006, the Planning Commission conducted a public hearing and forwarded the proposed text amendment to the Board of Supervisors recommending approval; and

WHEREAS, on December 14, 2006, the Fauquier County Board of Supervisors held a public hearing on this amendment; and

WHEREAS, adoption of the attached amendments support good zoning practice, convenience and the general welfare; now, therefore, be it

RESOLVED by the Fauquier County Board of Supervisors this \_\_\_\_ day of \_\_\_\_\_ 2007, That Article 4, Part 4 and Sections 5-904, 15-300, and 3-323 of the Fauquier County Zoning Ordinance be, and are hereby, amended as follows:

**PART 4            4-400            FLOODPLAIN OVERLAY DISTRICT (FP)**

**4-401                    Purpose and Intent**

The Floodplain District (FP) is created for the purpose of protecting the public health, safety and general welfare with respect to this most sensitive area which is subject to flooding and is environmentally important as a resource. It is also vital to maintenance of surface and groundwater quality and quantity. Regulations within the district are intended to protect the area as a resource and to ensure that uses will not significantly increase flooding potential, **compromise hydraulic and flood carrying capacity,** or unnecessarily expose persons to the hazards of flooding.

**4-402                    Floodplain District Boundaries**

**Except as provided in Section 4-403, the floodplain district shall include all areas subject to inundation by the waters of**

the one hundred year flood, including all areas within the FEMA floodway district and the FEMA special floodplain district. The source of this delineation shall be the Flood Insurance Study for Fauquier County prepared by the Federal Emergency Management Agency (FEMA) (November 1, 1979, as amended) The boundaries of the floodplain district shall be as delineated in accordance with the definition of floodplain in Article 15 (Definitions) of this Ordinance.

4-403

**District Boundary Changes Interpretation of District Boundaries**

The delineation of the boundary may be revised by the Board in the same manner and by the same procedures set forth in Article 13 where natural or manmade changes have occurred and/or more detailed studies conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agencies or individual document and need for such changes. However, prior to any such change which necessitates a change to the floodplain delineation by the Flood Insurance Study, approval must be obtained from the Federal Insurance Administration. See also Section 4 406.

The Zoning Administrator, in consultation with the County Engineer, is authorized to make necessary interpretations as to the exact location of the boundaries of floodplains if there appears to be a conflict between the mapped floodplain boundary, elevations and actual physical conditions. shall make the decision as to the exact location of the floodplain using the best data available at the time.

4-404

**Interpretation of District Boundaries Requirement for Floodplain Study**

In cases where the FEMA defined floodplain does not conform with readily available and acceptable topography of a subject site, the administrator may require a redelineation of the floodplain. Any such redelineation must be based on technical data and engineering calculations acceptable to the County and FEMA. Redelineations shall be required to be submitted to FEMA for official processing and modifications to the current Flood Insurance Rate Maps for Fauquier County.

The Zoning Administrator, shall make the decision as to the exact location of the floodplain using the best data available at the time.

## 4-405

**Permitted Uses**

In the Floodplain District, the following uses and activities are permitted provided they are in compliance with the provisions of the underlying district, and are not prohibited by any other ordinance. **Any such uses or activities involving grading, fill or structures shall require approval of a zoning permit pursuant to Section 13-500; such permit shall only be issued upon demonstration by the applicant that the proposed use is consistent with the use limitations set forth in Section 4-407, below. The Zoning Administrator may require information from any applicant as necessary to assure that all potential impacts have been addressed within the project design, including, but not limited to Engineering calculations demonstrating pre- and post-built conditions of the 100-year statistical storm.** and provided they do not require structures, fill or storage of material and equipment (Note: Except as provided in Section 4-406, floodplain boundaries shall not be altered by filling or the use of dikes or other engineering practices).

1. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, **fish hatcheries, game farms,** sod farming and wild crop harvesting; **provided, however, that no buildings are erected in the floodplain. In addition, timber harvesting is permitted upon submission of a Timber Management Plan that has been approved by the Virginia Department of Forestry.**
2. Public and private recreational uses and activities, such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas hiking and horseback riding trails, wildlife and nature preserves ~~game farms, fish hatcheries,~~ trap and skeet ~~game~~ ranges, ~~and~~ hunting and fishing areas, ~~pervious~~ parking areas, and related accessory structures **provided, however, that no enclosed buildings are erected in the floodplain.**
3. **Pedestrian and bicycle paths, including footbridges, on public land or commonly held open space.**
4. **Open Fences.**
5. Accessory residential uses, such as yard areas, gardens, **and** play areas, ~~and pervious loading areas.~~

- ~~6.~~ Accessory industrial and commercial uses., **excluding structures of any kind**, such as yard areas pervious parking and loading areas pervious airport landing strips, etc.
- ~~7.~~ **6.Private residential streets and driveways.** Type II and III private streets **including necessary fill and drainage infrastructure**, serving three or fewer lots. The maximum of three lots shall be cumulative for any **such street or driveway**. private street.
- ~~8.~~ **7.Improvements to existing public streets, including necessary fill and drainage infrastructure, where required by the County or Virginia Department of Transportation in conjunction with a land use development application.**
- ~~9.~~ **8. Underground utilities.**
- ~~10.~~ **9.**—Repair, reconstruction or improvement of existing structures so long as the footprint of such structure is not increased, provided further that the cost of such work does not exceed 50 percent of the market value of the structure, and provided further that all construction is in full compliance with the provisions of the Virginia Uniform Statewide Building Code. Uses or adjuncts thereof which are or become nuisances shall not be permitted to continue.
- 10. Stream mitigation sites, stream restoration, stream bank stabilization, wetland mitigation sites, wetland banks and wetland restoration projects.**

**4-406****Special Exception Uses**

The following uses and activities may be permitted by special exception provided they are in compliance with the provisions of the underlying district, satisfy the applicable standards contained in Article 5, are **consistent with the use limitations set forth in Section 4-407, below**, and are not prohibited by this or any other ordinance. (Note: All uses, activities and developments shall be undertaken in strict compliance with the flood proofing provisions contained in this and all other applicable codes and ordinances including, but not limited to, the Fauquier County Subdivision and Site Development Plan Ordinances and the Virginia Uniform Statewide Building Code).

1. Structures, except for dwelling units, accessory to the use and activities in Section 4-405 above and, provided further that

special exceptions are not required for accessory structures and unenclosed buildings specifically authorized by right in Section 4-405.

2. Utilities and public facilities and improvements such as railroads, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses.
3. All public **and private** streets, **driveways and right-of-way easements, except private streets and driveways serving three or fewer cumulative units.** as defined in Article 15 (Definitions) and all Type I private streets. ~~Type II and Type III private streets which serve more than three lots cumulative.~~
4. Water-related uses, **structures**, and activities such as marinas, docks, wharves, piers, etc. other than those authorized by right in Section 4-405.2.
5. Extraction of sand, gravel, and other materials.
6. Temporary uses such as circuses, carnivals, and similar activities.
7. **Temporary** storage of **non-hazardous and nontoxic** material and equipment.
8. **Engineered structures including, but not limited to, retaining walls, and structures along channels or watercourses for the purpose of water conveyance or flood control.**
9. **Accessory industrial and commercial uses; provided, however, that no buildings are erected in the floodplain.**
10. Other similar uses and activities. ~~provided they cause no increase in flood heights and/or velocities.~~

#### 4-407

#### **Use Limitations**

1. The placement of any dwelling unit in a floodplain is prohibited.
2. The placement of any structure in a ~~floodway~~ **floodplain, other than those specifically authorized in Sections 4-405 and 4-406,** is prohibited.

3. Under no circumstances shall any use, activity, and/or development adversely affect the capacity **or configuration** of the channels or floodways **floodplains** of any watercourse, drainage ditch or any other drainage facility or system which would increase flood heights and/or velocities on **other parcels or alter the configuration of the stream channel in upstream or downstream locations.**
4. All ~~new~~ streets located in floodplains including those permitted in Section 4-405.5., shall meet all applicable state and federal requirements.
4. Prior to any proposed relocation of any channels or floodways, of any watercourse, stream, etc., approval shall be obtained from the State Water Control Board, the Virginia Marine Resources Commission, **Virginia Department of Environmental Quality**, and from the U. S. Army Corps of Engineers, if required. Further notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notification shall be forwarded to the Division of **Dam Safety and Floodplain Management** Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.
5. **Prior to the construction of any stream mitigation sites, stream restoration, stream bank stabilization, wetland mitigation sites, wetland banks or wetland restoration projects requiring a permit under state or federal law, an application for a land disturbing permit must be submitted and approved by the County, unless otherwise provided by law. a certified, engineered plan must be submitted, and approved by the County. In addition, such submission for this use these uses shall include:**
  - a. **A copy of all plans and associated permits for the project submitted to the Department of Environmental Quality, and/or the United States Army Corps of Engineers.**
  - b. **An environmental and cultural resource evaluation including information on Federal and State-listed endangered and threatened species as well as other natural heritage resources within a 0.5 mile radius search limited to information available from the Virginia Department of Conservation and Recreation,**

**Division of Natural Heritage, the Virginia  
Department of Game & Inland Fisheries, the  
Virginia Department of Environmental Quality,  
and the Virginia Department of Historic  
Resources Data Sharing System.**

- c. A floodplain study, unless the need for such  
study is waived by the Zoning Administrator.**

**4-408                      Existing Structures in a Floodway**

~~A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:~~

- ~~1. Existing structures and/or uses located in the Floodplain District shall not be expanded or enlarged (unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements).~~
- ~~2. Any modification, alteration, repair, reconstruction or improvements of any kind to a structure and/or use regardless of its location in a floodplain to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provision of the Virginia Uniform Statewide Building Code.~~
- ~~3. Uses or adjuncts thereof which are or become nuisances shall not be permitted to continue.~~

**4-409                      Maximum Density**

~~The procedure for computing maximum allowable density in the FP District is set forth in Section 2-308.~~

**4-410                      Records of Construction**

~~Records of lowest floor elevations and flood-proofing levels shall be provided by the developer or landowner to the County Building Official in accordance with such standards and procedures as he may require. Such records shall show whether such structures contain a basement and shall be maintained by the Building Official. The Zoning Permit shall show the elevation of the one hundred (100) year flood.~~

5-904

**Additional Standards for Firing Range, Skeet or Trapshooting Facility (Indoor or Outdoor)**

1. The minimum lot size requirement shall be fifty (50) acres.
2. No structure used for or in conjunction with the use shall be located closer than 100 feet to any lot line.
3. The protection of adjacent properties will be assured by proper design, location and/or orientation of earthworks and firing line(s).
4. In the consideration of an application for such a use, both safety and noise factors will be taken into account and appropriate conditions imposed with respect thereto.
5. No permit shall be issued for such a use until the applicant has furnished evidence that the proposed development meets all applicable State and County laws.
6. Lead shot shall not be used within the one hundred year floodplain on skeet and trapshooting ranges commenced after the effective date of this amendment, July 12, 2007.

15-300

**DEFINITIONS**

**FLOODPLAIN:** All lands subject to inundation by waters of the one hundred (100) year flood. The basis for the delineation of the floodplain shall be the applicable current Flood Insurance Rate Map issued under the National Flood Insurance Program **unless modified under the provisions of Article 4, Part 4. The floodplain shall include all areas within the FEMA floodway district and the FEMA special floodplain district.**

**FLOODWAY:** ~~The channel of the watercourse and the adjacent land areas that, if kept free of encroachment, will carry the 100 year flood with an increase in flood height at any point in excess of one foot, regardless of encroachment in areas not within the floodway. For the purpose of this Ordinance, the floodway of any stream shall be that delineated therefore in the applicable current Flood Boundary Floodway Map issued under the National Flood Insurance Program, or in areas not covered by such a map, delineated in an engineering study approved by the Board.~~



**HAZARDOUS MATERIALS:** Hazardous materials are those materials regulated by the United States Department of Transportation and the United States Environmental Protection Agency as such and includes explosives, compressed gases, flammable liquids, flammable solids, oxidizers and organic peroxides, toxic materials, radioactive materials, and corrosive materials.

**STREAM BANK STABILIZATION:** Practices that employ non-structural means to prevent further culturally accelerated erosion.

**STREAM RESTORATION:** The re-establishment of the general structure, function and self-sustaining behavior of the stream system to include stream banks, bed, and hydrology that existed prior to culturally induced disturbances.

**WETLAND RESTORATION:** The re-establishment of the hydrologic and ecological conditions that existed at a wetland site prior to drainage.